

FIRST REGULAR SESSION

HOUSE BILL NO. 305

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES WALKER (Sponsor), HANSEN, SHUMAKE, REDMON,
FITZWATER, FRAKER, LYNCH, LOVE, WIELAND, REMOLE,
SPENCER AND GUERNSEY (Co-sponsors).

1160H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 610.021, RSMo, and to enact in lieu thereof one new section relating to changes to the sunshine law, with an emergency clause.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Section 610.021, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 610.021, to read as follows:

610.021. Except to the extent disclosure is otherwise required by law, a public governmental body is authorized to close meetings, records and votes, to the extent they relate to the following:

(1) Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys. However, any minutes, vote or settlement agreement relating to legal actions, causes of action or litigation involving a public governmental body or any agent or entity representing its interests or acting on its behalf or with its authority, including any insurance company acting on behalf of a public government body as its insured, shall be made public upon final disposition of the matter voted upon or upon the signing by the parties of the settlement agreement, unless, prior to final disposition, the settlement agreement is ordered closed by a court after a written finding that the adverse impact to a plaintiff or plaintiffs to the action clearly outweighs the public policy considerations of section 610.011, however, the amount of any moneys paid by, or on behalf of, the public governmental body shall be disclosed; provided, however, in matters involving the exercise of the power of eminent domain, the vote

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

16 shall be announced or become public immediately following the action on the motion to
17 authorize institution of such a legal action. Legal work product shall be considered a closed
18 record;

19 (2) Leasing, purchase or sale of real estate by a public governmental body where public
20 knowledge of the transaction might adversely affect the legal consideration therefor. However,
21 any minutes, vote or public record approving a contract relating to the leasing, purchase or sale
22 of real estate by a public governmental body shall be made public upon execution of the lease,
23 purchase or sale of the real estate;

24 (3) Hiring, firing, disciplining or promoting of particular employees by a public
25 governmental body when personal information about the employee is discussed or recorded.
26 However, any vote on a final decision, when taken by a public governmental body, to hire, fire,
27 promote or discipline an employee of a public governmental body shall be made available with
28 a record of how each member voted to the public within seventy-two hours of the close of the
29 meeting where such action occurs; provided, however, that any employee so affected shall be
30 entitled to prompt notice of such decision during the seventy-two-hour period before such
31 decision is made available to the public. As used in this subdivision, the term "personal
32 information" means information relating to the performance or merit of individual employees;

33 (4) The state militia or National Guard or any part thereof;

34 (5) Nonjudicial mental or physical health proceedings involving identifiable persons,
35 including medical, psychiatric, psychological, or alcoholism or drug dependency diagnosis or
36 treatment;

37 (6) Scholastic probation, expulsion, or graduation of identifiable individuals, including
38 records of individual test or examination scores; however, personally identifiable student records
39 maintained by public educational institutions shall be open for inspection by the parents,
40 guardian or other custodian of students under the age of eighteen years and by the parents,
41 guardian or other custodian and the student if the student is over the age of eighteen years;

42 (7) Testing and examination materials, before the test or examination is given or, if it
43 is to be given again, before so given again;

44 (8) Welfare cases of identifiable individuals;

45 (9) Preparation, including any discussions or work product, on behalf of a public
46 governmental body or its representatives for negotiations with employee groups;

47 (10) Software codes for electronic data processing and documentation thereof;

48 (11) Specifications for competitive bidding, until either the specifications are officially
49 approved by the public governmental body or the specifications are published for bid;

50 (12) Sealed bids and related documents, until the bids are opened; and sealed proposals
51 and related documents or any documents related to a negotiated contract until a contract is
52 executed, or all proposals are rejected;

53 (13) Individually identifiable personnel records, performance ratings or records
54 pertaining to employees or applicants for employment, except that this exemption shall not apply
55 to the names, positions, salaries and lengths of service of officers and employees of public
56 agencies once they are employed as such, and the names of private sources donating or
57 contributing money to the salary of a chancellor or president at all public colleges and
58 universities in the state of Missouri and the amount of money contributed by the source;

59 (14) Records which are protected from disclosure by law;

60 (15) Meetings and public records relating to scientific and technological innovations in
61 which the owner has a proprietary interest;

62 (16) Records relating to municipal hotlines established for the reporting of abuse and
63 wrongdoing;

64 (17) Confidential or privileged communications between a public governmental body
65 and its auditor, including all auditor work product; however, all final audit reports issued by the
66 auditor are to be considered open records pursuant to this chapter;

67 (18) Operational guidelines and policies developed, adopted, or maintained by any public
68 agency responsible for law enforcement, public safety, first response, or public health for use in
69 responding to or preventing any critical incident which is or appears to be terrorist in nature and
70 which has the potential to endanger individual or public safety or health.

71 Nothing in this exception shall be deemed to close information regarding expenditures,
72 purchases, or contracts made by an agency in implementing these guidelines or policies. When
73 seeking to close information pursuant to this exception, the agency shall affirmatively state in
74 writing that disclosure would impair its ability to protect the safety or health of persons, and shall
75 in the same writing state that the public interest in nondisclosure outweighs the public interest
76 in disclosure of the records. This exception shall sunset on December 31, [2012] **2016**;

77 (19) Existing or proposed security systems and structural plans of real property owned
78 or leased by a public governmental body, and information that is voluntarily submitted by a
79 nonpublic entity owning or operating an infrastructure to any public governmental body for use
80 by that body to devise plans for protection of that infrastructure, the public disclosure of which
81 would threaten public safety;

82 (a) Records related to the procurement of or expenditures relating to security systems
83 purchased with public funds shall be open;

84 (b) When seeking to close information pursuant to this exception, the public
85 governmental body shall affirmatively state in writing that disclosure would impair the public

86 governmental body's ability to protect the security or safety of persons or real property, and shall
87 in the same writing state that the public interest in nondisclosure outweighs the public interest
88 in disclosure of the records;

89 (c) Records that are voluntarily submitted by a nonpublic entity shall be reviewed by the
90 receiving agency within ninety days of submission to determine if retention of the document is
91 necessary in furtherance of a state security interest. If retention is not necessary, the documents
92 shall be returned to the nonpublic governmental body or destroyed;

93 (d) This exception shall sunset on December 31, [2012] **2016**;

94 (20) Records that identify the configuration of components or the operation of a
95 computer, computer system, computer network, or telecommunications network, and would
96 allow unauthorized access to or unlawful disruption of a computer, computer system, computer
97 network, or telecommunications network of a public governmental body. This exception shall
98 not be used to limit or deny access to otherwise public records in a file, document, data file or
99 database containing public records. Records related to the procurement of or expenditures
100 relating to such computer, computer system, computer network, or telecommunications network,
101 including the amount of moneys paid by, or on behalf of, a public governmental body for such
102 computer, computer system, computer network, or telecommunications network shall be open;

103 (21) Credit card numbers, personal identification numbers, digital certificates, physical
104 and virtual keys, access codes or authorization codes that are used to protect the security of
105 electronic transactions between a public governmental body and a person or entity doing business
106 with a public governmental body. Nothing in this section shall be deemed to close the record
107 of a person or entity using a credit card held in the name of a public governmental body or any
108 record of a transaction made by a person using a credit card or other method of payment for
109 which reimbursement is made by a public governmental body; and

110 (22) Records submitted by an individual, corporation, or other business entity to a public
111 institution of higher education in connection with a proposal to license intellectual property or
112 perform sponsored research and which contains sales projections or other business plan
113 information the disclosure of which may endanger the competitiveness of a business.

Section B. Because immediate action is necessary to provide clear guidance relating to
2 security records under the state Sunshine Law to law enforcement, school boards, and other
3 public bodies, this act is deemed necessary for the immediate preservation of the public health,
4 welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of
5 the constitution, and this act shall be in full force and effect upon its passage and approval.

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